

HOUSE BILL No. 1571

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-13-6-1; IC 5-8-1-19; IC 31-30-1-10; IC 31-31; IC 33-23-1-7; IC 33-31-1; IC 33-33-71; IC 34-46-2-30.4.

Synopsis: St. Joseph County courts. Requires the election of superior court judges in St. Joseph County. Repeals provisions related to the St. Joseph County judicial nominating commission. Continues the terms of the St. Joseph superior court judges in office on June 30, 2007, until the date the judges' terms will end under the law in effect on June 30, 2007. Makes the judge of the St. Joseph circuit court the chief judge of the St. Joseph superior court. Transfers juvenile jurisdiction in St. Joseph County from the probate court to the circuit court.

Effective: July 1, 2007.

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January 26, 2007, read first time and referred to Committee on Rules and Legislative Procedures.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1571

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-13-6-1, AS AMENDED BY P.L.119-2005,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 1. (a) As used in this section, "judge" refers to a
4 judge of a circuit, superior, probate, or county court.
5 (b) If a judge wants to resign from office, the judge must resign as
6 provided in IC 5-8-3.5.
7 (c) A vacancy that occurs because of the death of a judge may be
8 certified to the governor under IC 5-8-6.
9 (d) A vacancy that occurs, other than by resignation or death of a
10 judge, shall be certified to the governor by the circuit court clerk of the
11 county in which the judge resided.
12 (e) A vacancy in the office of judge of a circuit court shall be filled
13 by the governor as provided by Article 5, Section 18 of the Constitution
14 of the State of Indiana. However, the governor may not fill a vacancy
15 that occurs because of the death of a judge until the governor receives
16 notice of the death under IC 5-8-6. The person who is appointed holds
17 the office until:

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(1) the end of the unexpired term; or

(2) a successor is elected at the next general election and qualified;

whichever occurs first. The person elected at the general election following an appointment to fill the vacancy, upon being qualified, holds office for the six (6) year term prescribed by Article 7, Section 7 of the Constitution of the State of Indiana and until a successor is elected and qualified.

(f) A vacancy in the office of judge of a superior, probate, or county court shall be filled by the governor subject to the following:

(1) IC 33-33-2-39.

(2) IC 33-33-2-43.

(3) IC 33-33-45-38.

~~(4) IC 33-33-71-40.~~

However, the governor may not fill a vacancy that occurs because of the death of a judge until the governor receives notice of the death under IC 5-8-6. The person who is appointed holds office for the remainder of the unexpired term.

SECTION 2. IC 5-8-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) Under Article 7, Section 13 of the Constitution of the State of Indiana, whenever a circuit, superior, probate, or county court judge or prosecuting attorney has been convicted of corruption or any other high crime, the attorney general shall bring proceedings in the supreme court, on information, in the name of the state, for the removal from office of the judge or prosecuting attorney.

(b) If the judgment is against the defendant, the defendant is removed from office. The governor, the officer, or the entity required to fill a vacancy under IC 3-13-6-2 shall, subject to:

(1) IC 33-33-2-39;

(2) IC 33-33-2-43; **and**

(3) IC 33-33-45-38; **and**

~~(4) IC 33-33-71-40;~~

appoint or select a successor to fill the vacancy in office.

SECTION 3. IC 31-30-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. A circuit court has concurrent original jurisdiction with the juvenile court ~~including the probate court described in IC 33-31-1-9(b);~~ for the purpose of establishing the paternity of a child in a proceeding under:

(1) IC 31-18;

(2) IC 31-1.5 (before its repeal); or

(3) IC 31-2-1 (before its repeal);

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to enforce a duty of support.

SECTION 4. IC 31-31-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. The judge of

~~(1) a juvenile court or~~

~~(2) a probate court under IC 33-31-1;~~

may appoint one (1) or more part-time juvenile court referees.

SECTION 5. IC 31-31-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. The judge of

~~(1) a juvenile court or~~

~~(2) a probate court under IC 33-31-1;~~

may appoint one (1) or more part-time juvenile court referees.

SECTION 6. IC 33-23-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. "Judicial nominating commission", except as used in IC 33-33-2 and IC 33-33-45, and ~~IC 33-33-71~~, means the commission described in Article 7, Section 9 of the Constitution of the State of Indiana.

SECTION 7. IC 33-31-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) The probate court in the county for which it is organized has original, concurrent jurisdiction with the superior courts of the county in all matters pertaining to the following:

(1) The probate of wills.

(2) Proceedings to resist probate of wills.

(3) Proceedings to contest wills.

(4) The appointment of guardians, assignees, executors, administrators, and trustees.

(5) The administration and settlement of estates of protected persons (as defined in IC 29-3-1-13) and deceased persons.

(6) The administration of trusts, assignments, adoption proceedings, and surviving partnerships.

(7) Any other probate matters.

~~(b) The probate court has exclusive juvenile jurisdiction in St. Joseph County.~~

~~(c)~~ (b) The probate court does not have jurisdiction in civil actions.

SECTION 8. IC 33-31-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. The probate court has jurisdiction and shall proceed in the probate and juvenile causes. All proceedings in probate and juvenile causes in the court shall be conducted as proceedings are required, by law, to be conducted in the circuit court in the counties not having a probate court.

SECTION 9. IC 33-31-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24. In addition to any

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1 appointments made by the judge of the St. Joseph probate court under
 2 ~~IC 31-31-3~~; The judge of the St. Joseph probate court may appoint one
 3 (1) full-time magistrate under IC 33-23-5. The magistrate may exercise
 4 ~~(1) probate jurisdiction under section 9(a) of this chapter and~~
 5 ~~(2) juvenile jurisdiction under section 9(b) of this chapter;~~
 6 and continues in office until removed by the judge.

7 SECTION 10. IC 33-33-71-5 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) There is
 9 established a superior court in St. Joseph County.

10 (b) The court consists of eight (8) judges, **who shall be elected at**
 11 **the general election every six (6) years in St. Joseph County.**

12 (c) **The term of a judge begins January 1 following the judge's**
 13 **election and ends December 31 following the election of the judge's**
 14 **successor.**

15 (d) **To be eligible to hold office as judge of the court, a person**
 16 **must be:**

- 17 (1) **a resident of St. Joseph County;**
- 18 (2) **less than seventy (70) years of age at the time of taking**
 19 **office; and**
- 20 (3) **admitted to the practice of law in Indiana.**

21 SECTION 11. IC 33-33-71-8 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. The St. Joseph
 23 superior court has the following jurisdiction:

- 24 (1) Original, appellate, concurrent, and coextensive jurisdiction
 25 with the circuit court in all civil cases, criminal cases, and probate
 26 matters.
- 27 (2) Concurrent and coextensive jurisdiction with the circuit court
 28 in all cases of appeal from boards of county commissioners and
 29 all other appellate jurisdiction vested in the circuit court.
- 30 (3) Concurrent and coextensive jurisdiction in all matters of
 31 probate and the settlement of decedents' estates, trusts, and
 32 guardianships.
- 33 (4) Jurisdiction in all other subject matters actionable in the
 34 circuit court, **except that only the circuit court has juvenile**
 35 **jurisdiction.**
- 36 (5) Original exclusive jurisdiction of all violations of ordinances
 37 of cities located in the county.
- 38 (6) Original exclusive jurisdiction in the trial of offenses
 39 constituting violation of traffic ordinances of the cities and
 40 violations of traffic laws of the state that occur in any city of St.
 41 Joseph County.
- 42 (7) Original jurisdiction of violations of traffic laws of the state

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that occur outside a city in St. Joseph County.

SECTION 12. IC 33-33-71-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) The ~~superior judge of the St. Joseph circuit~~ court by rules duly adopted by the court, shall ~~designate one (1) of the judges serve~~ as chief judge and fix the time the chief judge presides. **of the St. Joseph superior court.**

(b) The chief judge shall be responsible for the operation and conduct of the court and to seeing that the court operates efficiently and judicially.

(c) The chief judge shall do the following:

(1) Assign cases to a judge of the court or reassign cases from one (1) judge of the court to another judge of the court to ensure the efficient operation and conduct of the court.

(2) Assign and allocate courtrooms, other rooms, and other facilities to ensure the efficient operation and conduct of the court.

(3) Annually submit to the fiscal body of St. Joseph County a budget for the court.

(4) Make appointments or selections on behalf of the court that are required of a superior court judge under any statute.

(5) Direct the employment and management of court personnel.

(6) Conduct cooperative efforts with other courts for establishing and administering shared programs and facilities.

SECTION 13. IC 33-33-71-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. The judge of the circuit court may ~~with the consent of the chief judge~~, transfer any action, cause, or proceeding filed and docketed in the circuit court to the superior court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the superior court.

SECTION 14. IC 33-33-71-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. ~~The chief~~ A judge of the superior court may, with the consent of the judge of the circuit court, transfer any action, cause, or proceeding filed and docketed in the superior court to the circuit court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the circuit court.

SECTION 15. IC 33-33-71-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 28. The judge of the St. Joseph circuit court at the circuit court judge's discretion, may sit as a judge of the superior court ~~with the chief judge's permission~~, in all

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1 matters pending before the superior court, without limitation and
 2 without any further order, in the same manner as if the judge of the
 3 circuit court were a judge of the superior court with all the rights and
 4 powers as if the judge of the circuit court were an elected judge of the
 5 superior court.

6 SECTION 16. THE FOLLOWING ARE REPEALED [EFFECTIVE
 7 JULY 1, 2007]: IC 33-31-1-23; IC 33-33-71-29; IC 33-33-71-30;
 8 IC 33-33-71-31; IC 33-33-71-32; IC 33-33-71-33; IC 33-33-71-34;
 9 IC 33-33-71-35; IC 33-33-71-36; IC 33-33-71-37; IC 33-33-71-38;
 10 IC 33-33-71-39; IC 33-33-71-40; IC 33-33-71-41; IC 33-33-71-42;
 11 IC 33-33-71-43; IC 33-33-71-44; IC 33-33-71-45; IC 33-33-71-46;
 12 IC 33-33-71-47; IC 33-33-71-48; IC 33-33-71-49; IC 33-33-71-50;
 13 IC 33-33-71-51; IC 33-33-71-52; IC 33-33-71-53; IC 33-33-71-54;
 14 IC 33-33-71-55; IC 33-33-71-56; IC 33-33-71-57; IC 33-33-71-58;
 15 IC 33-33-71-59; IC 33-33-71-60; IC 33-33-71-61; IC 33-33-71-62;
 16 IC 33-33-71-63; IC 33-33-71-64; IC 33-33-71-65; IC 33-33-71-66;
 17 IC 33-33-71-67; IC 33-33-71-68; IC 34-46-2-30.4.

18 SECTION 17. [EFFECTIVE JULY 1, 2007] (a) **Notwithstanding**
 19 **the amendment and repeal of provisions in IC 33-33-71 by this act,**
 20 **the term of a judge in office in the St. Joseph County superior**
 21 **court on June 30, 2007, does not terminate until the date that the**
 22 **term would have terminated under the law in effect on June 30,**
 23 **2007.**

24 (b) **The initial election under IC 33-33-71, as amended by this**
 25 **act, to fill a judge's position on the St. Joseph County superior**
 26 **court is the general election immediately preceding the date on**
 27 **which the term of the judge occupying the position on June 30,**
 28 **2007, would have terminated under the law in effect on June 30,**
 29 **2007.**

30 (c) **This SECTION expires January 2, 2013.**

31 SECTION 18. [EFFECTIVE JULY 1, 2007] (a) **Any case or other**
 32 **matter:**

33 (1) **that the St. Joseph probate court acquired under its**
 34 **juvenile jurisdiction; and**

35 (2) **pending in the St. Joseph probate court after the close of**
 36 **business on June 30, 2007;**

37 **is transferred on July 1, 2007, to the St. Joseph circuit court. A case**
 38 **or other matter transferred under this SECTION shall be treated**
 39 **as if the case or other matter were filed in the St. Joseph circuit**
 40 **court.**

41 (b) **On July 1, 2007, all property and obligations that the St.**
 42 **Joseph probate court acquired under its juvenile jurisdiction**

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- 1 **become the property and obligations of the St. Joseph circuit court.**
- 2 **(c) An appointment made by the judge of the St. Joseph probate**
- 3 **court under IC 31-31 expires June 30, 2007.**
- 4 **(d) This SECTION expires July 2, 2007.**

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